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THE CONTROL OF TRUSTS

•The M Co. •

THE
CONTROL OF TRUSTS

AN ARGUMENT IN FAVOR OF CURBING
THE POWER OF MONOPOLY BY
A NATURAL METHOD

BY

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New York

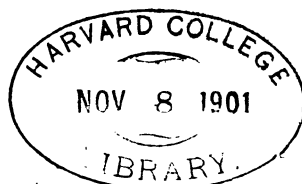
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PREFACE


THE purpose of this little book is a modest one. It does not attempt to duplicate work which has been well done by others. It contains no history of trusts and no description of the forms that they are now taking. It refers the reader to the works of Professors Jenks, Ely and Von Halle, and to the reports of the Industrial Commission, for facts concerning these consolidations and confines itself to the one object of advocating a certain definite policy in dealing with them. It is the policy that relies wholly on competition as the regulator of prices and wages and as the general protector of the interests of the public. It welcomes centralization, but aims to destroy monopoly, and to do this by keeping the field open to all independent producers who may choose to enter it. By this plan a man who builds a mill and puts on the market goods such as a trust is making must take all the chances that fair competition entails; but he will be shielded from certain predatory and

unfair attacks, in which size gives to the consolidation a decisive advantage. It is competition, real or potential, that now partially protects the public and makes the present situation endurable. If prices are raised beyond a certain level, new mills are built; and a wholesome respect for the influence of these mills acts in advance of their existence to hold prices in check. It is possible, as this book maintains, to give greater efficiency to this regulator. If this is thoroughly done, the menacing corporations will become servants of the public; and their great power will serve to secure for America cheap production, increased exportation, and commercial and financial dominance among nations. It will tend to make wages rise, to increase the savings of laborers and to afford an enlarged field for the investment of such accumulations. It will tend also to give steadiness to the movement of business and to diminish the violence of commercial crises. In the view that is here advanced, political democracy depends for success largely on the solution of industrial problems; and a condition that shall create many small fortunes, besides a few gigantic ones, will produce the personal material of which a democratic state needs to be made. The *demos* will

then not be an empty-handed and hungry proletariat, but a body of conservative and intelligent citizens.

Even the argumentative part of this book is brief, and aims rather to call attention to the plan that it advocates than to discuss it in any exhaustive way. It is the author's belief that circumstances will, in any case, force us to adopt a line of policy which is either identical with this one or akin to it, and that it is necessary only to win public attention for the plan here suggested, in order that costly experiments and more costly delays may be avoided; for it is the country which shall early get the benefits and avoid the dangers that trusts bring with them which will attain a place of leadership.

The book is composed mainly of articles which have appeared in the *Political Science Quarterly*, the *Atlantic Monthly* and the *Independent*. These articles are here reprinted, in whole or in part, with only such amplification as is necessary in order to bring them into a connected series. If the logical sequence is not at all points exactly what it would have been if the book had been written *de novo*, the reader may, perhaps, excuse the fact in view of the origin of the work. The writer desires to express his thanks to the editors of the several



periodicals for the permission which they have kindly given to use the articles, and to Mr. Arthur M. Day, Instructor in Political Economy in Columbia University, for very valuable aid rendered in connection with the revising of the proof.

COLUMBIA UNIVERSITY,
NEW YORK.

CONTENTS

CHAPTER I

THE PEOPLE AND THE PROBLEM

	PAGE
How views concerning trusts have changed. The necessity for distinguishing between capital as such, centralization, and monopoly. The possibility of securing centralization without monopoly, and the outlook that this possibility presents. The power of potential competition, the hindrances that interfere with the perfect working of it, and the possibility of removing such hindrances	I

CHAPTER II

EARLY EXPERIMENTS AND PRESENT FACTS

The destruction of trusts undertaken in ignorance of their nature and working; the expectation that they will continue. Their menacing actions. Internal weaknesses and the effect of removing them. The investor as a party needing protection. Consumers and laborers as partially protected by potential competition. Three unfair weapons used by the trusts against its rivals and the possibility of taking away these weapons . . .	17
--	----

CHAPTER III

HOW NOT TO DEAL WITH TRUSTS

Possible measures to be tested by a rule of exclusion. The total abolition of many protective duties. The dread of this measure. Reductions of duties which are	
---	--

called for without reference to the problem of trusts. The reason for taking independent producers into consideration. The trust as a possible ally in the effort to reduce duties. The limit of wise reductions and the necessity for controlling monopolies as a means of securing them. The condition in which manufacturing companies will favor reciprocity treaties. The limiting of the capital of trusts, the forcible division of such corporations, and the regulating of prices by law all impracticable and undesirable	PAGE 36
---	------------

CHAPTER IV

MONOPOLIES AND THE LAW

Investors first to be protected, then consumers, laborers, and farmers. Independent producers the protectors of the three latter classes. The need of regulating the charges of railroads. Three predatory actions of trusts and the difficulty of suppressing them by statutes. The greater efficiency of the common law. The true test of a monopoly and the aid which statutes may afford in the applying of it. Competition now repressed by monopolistic power; the necessity of precluding this action of the monopoly by means of the common law aided by statutes	56
---	----

CHAPTER V

CONCLUSION

Summary of the policy advocated. The results to be hoped for: predominance in international commerce, collective prosperity, harmony among classes, and industrial progress. The effect on progress a decisive test of an economic policy. Gains from consolidation not perverted into monopoly, contrasted with the effects of (1) partial monopoly and (2) state socialism . . .	81
--	----

THE CONTROL OF TRUSTS

THE CONTROL OF TRUSTS

CHAPTER I

THE PEOPLE AND THE PROBLEM

AMERICAN industry has recently gone through a rapid and startling evolution. Consolidations of capital, which look like monopolies, have come, apparently to stay. Just as we were beginning to understand an economic system in which competition ruled, the system transformed itself into one which is seemingly based on the repression of the competitive process.

The feeling of the people concerning this change has gone through two distinct phases. There was an early period of alarm, as the seeming monopolies developed. This was followed by a period of reassurance, as the fact appeared that some influence was holding these monopolies in check and that they could not do their worst. Perceiving that they neither

raised prices nor depressed wages as they would have done if their mastery of the situation had been secure the people assumed toward them a more tolerant attitude. Since then views have become divergent and different classes of the people have developed unlike opinions. The so-called trusts have a few pronounced friends and many pronounced enemies, while in the background, and constituting the jury before which the case is to be tried, is the undecided majority of the people. By their acts the trusts are furnishing evidence and are revealing their real nature; and they must accept, in the end, the verdict which the public will pronounce. The nation will have its way when it knows what it wants.

In September, 1899, there was held in Chicago a conference on the subject of trusts. The members of it represented many sections and many interests, and the addresses that were delivered may be taken as revealing the position of the American people on the question of monopolies. In advance of the fuller expression of the popular feeling that will ultimately be given, this conference, perhaps,

affords the best means of perceiving at a glance how the people of this country think and feel, and how they will probably act, in relation to those vast corporations which are acquiring a certain monopolistic power.

The most encouraging fact that has come to light is the existence of a limitless amount of moral earnestness—a feeling of antagonism to real monopoly—that is uniting people, particularly in the South and West, in a crusade which has a remote resemblance to the anti-slavery movement. People of this way of thinking and feeling do not usually make a deep analysis of the situation. As they do not fully understand the commercial evolution that is going on in the world, they are likely, in their opposition to the monopolistic action of trusts, to undervalue their productive power. The statutes which the people will favor, and will perhaps continue to enact, will be sweeping prohibitions, with plentiful penalties attached to them. They will be laws that cannot be enforced, and that would do harm if they were enforced. And yet, in a way, what this section of the people has to contribute toward the

solution of the trust problem is worth more than is anything which other sections can contribute. A zeal that is not according to knowledge now will be pretty certain to be according to it before the struggle is over. It will, at least, begin to do something; and if what it does proves to be not the right thing, it will do something else. In the end it will solve the problem; while, on the other hand, a knowledge that is not backed by zeal will do nothing either at the outset or afterward.

Fortunately, not all of the zeal is confined to the South and the West. Agriculture develops the most powerful opposition to trusts; but all through the country capital that is not massed in colossal holdings is opposed to them. The country as a whole has little use for real monopoly, or for political parties that entangle themselves with monopolies. Success in elections is to be had only under the old banner of economic freedom.

There are two small classes of people who are predisposed to favor trusts, even though they shall prove to be real monopolies. These are, first, the revolutionary classes—socialists,

anarchists, communists and the like; and, secondly, the workmen in a few highly organized trades, who have some inclination to favor those trusts which will exact high prices from the purchasing public and share with their workmen the gains thus realized. Experience seems to show that a trust which has real monopolistic power may form an alliance with its workmen, or with important classes of its workmen, against the public. In that case the laborers who benefit by the high prices thus secured are attached to the trust, though it is by a conditional and precarious interest.

What is the attitude of the great body of the people? Has it not taken any decided attitude? Does it not know what it thinks and wishes? In so far as the details of law making are concerned, it certainly does not. It is in the inquirer's position; and the question that it is hoping to have answered is whether it should try to frame statutes that will crush the trusts or should content itself with trying to regulate them, or even with letting them alone. On the more fundamental issue, as I venture to affirm, the mind of the people is made up. There is

one thing that it wants and will have; and there is another thing that it fears, hates and will repress. What it wants is productive efficiency. The people will have capital so organized that it can compete successfully with any capital in the world. What they will not have is capital so endowed with special and abnormal powers that it can do a plundering work, as well as a productive one.

There are certain distinctions which the people almost never make with sufficient clearness; and these they must at some time make, if their moral earnestness is, in a practical way, to be good for much. There are three things, not at all identical, which the people, in their thought and speech, jumble together, and even attack without any discrimination. They are, first, capital as such; secondly, centralization; and, thirdly, monopoly. When a general attack is pending, the word that is used to cover them all, in blanket fashion, is "monopoly." Whenever the anti-monopoly movement takes the shape of an assault on all bondholders or stockholders, it is clear that the first discrimination has not been made; for thus capital, as such, is

confounded with capital endowed with pernicious powers.

This, fortunately, was not the attitude of those representatives of the people who were recently gathered at the Chicago conference, and it is not the attitude of the people in general. There are persons who have a quarrel with bondholders and stockholders, as such, because they are opposed to the men who have something. They are, however, in a very small minority. It is only in the heat of a contest that an attack of monopoly becomes, to any important extent, an actual attack on capital.

An attack on monopoly easily becomes an attack on centralization. In this connection clear discrimination is rare. To many people the massing of capital seems necessarily to make it monopolistic. If it does this, then there is no distinction in fact between highly centralized capital and monopoly. We cannot have capital in very big masses without being "in the grip of an octopus" or "enslaved," as some of our friends from the West and South think that we already are.

There is one great question of fact pending:

- Does centralization carried to great lengths necessarily involve monopoly? If so, those people are perfectly right who jumble the two together and attack them both with all the energy of which they are capable. Monopoly is unendurable. If we cannot exterminate it or reduce it to harmless dimensions, we shall begin even to listen to the seductions of the socialists. We shall think better than we ever thought before of the plan of letting the trusts do their utmost, to the end that, as soon as a vast network of them shall have full possession of the industrial field, we shall seize their entire capital and use it for the benefit of the people.
- Is this the only alternative? It is so if centralization and monopoly are practically the same thing, and if the centralizing tendency cannot be stopped. If they are not the same, then we may have centralization without having monopoly. We may get the good that there is in the trust and cast away the evil. We may save all the productive energy that vast capitals ensure, and make ourselves victorious competitors in the struggle for the traffic of the world. We may enable ourselves to

undersell every one else, not because our workmen will take low wages, but because, thanks to our big shops and our automatic machines, they produce more than any other workmen. If America is, as it seems to be, the natural home of the trust, and if we can draw the fangs of the monster and tame him to good uses, we can get all that it is possible to get out of material civilization. We can be commercially dominant and the leaders in economic progress. We can win the prizes that leadership brings—and there is no measuring the value of those prizes; for wealth honestly gained and honestly dispersed among the people means a high level of life, intellectual and moral, as well as physical.

Momentous beyond the power of language to measure is the question whether centralization may be allowed to go to the utmost lengths without fastening on the people the intolerable burden of monopoly. Answer this question in one way, and you will probably be a socialist; and certainly you ought to be one. Answer it in another way, and you will be an "individualist," though that is an inexact term for indicating the development for which you hope. In the

latter case, you will believe in freedom of individual action, in competition, in the right of contract—in short, in the things that have made our civilization what it is. In either case, you will keep your optimism; for you will be sure that, in the end, we shall get out of our troubles and dangers. But if you think that the only thing that can save us is the seizing of all capital by the state, then the economic millennium, the vision of which will cheer you in the dark days before it can be realized, will be a time of fraternal sharing of everything, of the keeping of a common purse for humanity and of a forced equality that will leave little chance for liberty. If, on the other hand, you think that competition and private initiative can save us, if only they have a fair trial, what you will see before you is an endless era of progress insured by old and familiar forces. You will see the wealth-creating power of the social organism always growing, wages always rising, wealth often massed, indeed, in great corporate capitals, but also divided, in its ownership, into a myriad of holdings scattered widely among the people. You will see workers acquiring capital,

while still earning wages in the mill; and, as an outcome not so remote as a Philistine view would make it, you may see production moving so steadily that the bonds of great corporations, and even the stocks, may become common and safe forms of investment of workmen's savings. You will see them used so freely for this purpose that the old and sharp line of demarcation between the capitalist class and the laboring class will be blurred and at many points obliterated. The men who work will have a proprietary interest in the tools of labor and a share in what the tools produce. The socialist is not the only man who can have beatific visions, for the picture of a manly development for the laborer — of a perpetual rise in wages and increase in savings, in home owning, in personal independence, and in culture — is presented to every one who sees what competition is capable of doing. Not, indeed, without very intelligent action on the part of the government, and not without experimenting and waiting, will all this come. But it will come ultimately, provided only that, in spite of consolidations, competition shall continue to work.

The practical thing to be decided, therefore, is what a state can do to open the rift between centralization and monopoly—to enable the mills to produce and to sell as cheaply as the biggest establishments can, but to stop the extortion that trusts practise and ward off the greater extortion that they threaten to practice.

What is the kind of legislation that a government needs to enact, if it will pluck the flower of commercial success from a very thorny and dangerous bush? The key to the solution of this problem is afforded by the natural forces that are already curbing the great corporations. We have only to act according to nature. We must do what a skilful physician does when he wishes his patient to get well: we must remove the obstructions that prevent nature from doing its healing work. Great corporations would never be monopolies if competition were not abnormally fettered—if individual action had a fair field and no favor.

Certain fundamental facts are now well known, and we encounter them everywhere in

the discussion of the problem of trusts. When prices are unduly high, owing to the grasping policy of some trust, what happens? New competition usually appears in the field. Capital is seeking outlets, but it has become hard to find them. Readily, and sometimes almost recklessly, does it build new mills and begins to compete with trusts, when these consolidated companies do not know enough to proceed on a conservative plan. Let any combination of producers raise the prices beyond a certain limit, and it will encounter this difficulty. The new mills that will spring into existence will break down prices; and the fear of these new mills, without their actual coming, is often enough to keep prices from rising to an extortionate height. The mill that has never been built is already a power in the market; for if it surely will be built under certain conditions, the effect of this certainty is to keep prices down.

The real and serious difficulty is the fact that the curbing influence of this latent competition cannot always be depended on to prevent a real and considerable extortion.

There is often a considerable range within which trusts can raise prices without calling potential competition into positive activity. The possible competitor does not, by any means, become a real one as promptly as he should. The trouble is, that he has not a fair chance for his life when he actually appears on the scene. He is in very great danger of being crushed by the trust, by virtue of certain abnormal things that the trust is now allowed to do. If the great company could not do these abnormal things, the new competitor would be safe, and he would appear promptly whenever profits should become high enough to call for him. The possibility of his coming would hold prices at a natural level. The trust would benefit the people by its economies and would not trouble them by its exactions.

Potential competition is certainly a real force. Experience has proved this a hundred times, in the short period within which modern trusts have existed. It is, however, a force that can be easily obstructed. Capital is proverbially timid; yet here is a case where it

has to be bold, if it is to do what the public needs to have it do. Our system of laws now permits overgrown capitals to bully small ones. The big company has a right to beat the little one in an honest race for cheapness in making and selling goods; but it has no right to foul its competitor and disable it by an underhanded blow—and this is exactly what great trusts are doing. Where a state needs to secure delicate action by a highly sensitive agent, its clumsy laws and clumsier policing allow that agent to receive rough handling when it comes into the field or to be so terrorized in advance that it often does not come at all.

The fact is that a trust is allowed to do things which are out of harmony with the spirit of the law — things which it could not do if the law were accomplishing even the single task that a narrow Spencerian policy demands of it, namely, the protection of property. There are actions that have in them the essence of robbery, though they lie altogether outside of the scope of statutes heretofore enacted. It is not so clear that they are outside of the scope

of common law; but they are not actually suppressed by it. We shall see what these actions are and what policy they call for. We shall see how, by preventing such acts, we can make the trust legitimate and safely avail ourselves of its vast productive power. We can use insight and perceive how nature is already working. We can try the right experiment, and try it early. We can liberate the competitive forces that, even now, trammelled as they are, make our state a tolerable one, and enable them to develop their full influence. The monsters that alarm us are tied by a half visible leash that we did not consciously put on them; but it is one that we can strengthen to the point at which it will hold and tame them, making them serve us. Success in the fierce rivalries into which nations are now entering will come to those which utilize, for all that it is worth, the power which massed capital gives, without surrendering their economic freedom.

CHAPTER II

EARLY EXPERIMENTS AND RECENT FACTS

THIS country is the especial home of trusts in their highly developed form, — that, namely, of the great corporation which has absorbed many smaller ones; and here, therefore, has been experienced, in the largest degree, the revolutionary changes which their presence is making. If the carboniferous age were to return and the earth were to repopulate itself with dinosaurs, the change that would be made in animal life would scarcely seem greater than that which has been made in business life by these monster-like corporations. Their size is, however, one of the few things about them of which we can be absolutely sure. Whether in the long run they will prove to be benevolent or malevolent we cannot know more positively than we can know whether the extinct saurians were gentle or fierce. In both cases the looks imply a degree of fierceness. But

we do not know definitely whether the trusts will permanently raise prices or lower them, or whether they will permanently lower wages or raise them. We do not know whether they will in the end impair investments or make them more secure. It is a singular fact that, in the face of all of these uncertainties about the character of trusts, there is one type of law which the people of many states have been able to agree upon, and that is the kind of law that aims to crush them. We propose to exterminate the monsters on uncertainties. The Montana verdict, that a man deserved hanging for shooting another by accident, inasmuch as "in such matters a man should know his own mind," seems to be applicable here; for a country should know its own mind before destroying an institution.

More general than the opinion that the trusts ought to be crushed is the conviction that they will not down. They are here to stay, and we know it. An explanation of the light-hearted way in which we put upon the statute books laws that aim to crush them is found in the fact that such laws do

their principal work before they are enacted, when they are nothing but planks in political platforms. In the present temper of the public mind severe measures are at least good for the party that promises them; and, if by an experiment or two it is shown that they are not workable, there is the less danger in continuing to enact them into laws. In general, political platforms have of late required prohibitive statutes, with pains and penalties attached to them; and, though such statutes have frequently been enacted, so far as large results are concerned, that has been the end of it.

Unless we can "fool all of the people all the time," we shall be forced sooner or later to change this policy; for the people will have laws that not only sound well, but work well. In order to obtain them, the first step is to get a more thorough knowledge of the facts concerning trusts and their operations. We certainly need to know more than that in its outward appearance, a trust resembles an octopus.

Not baseless, certainly, are the accusations that are universally brought against the trusts

for their conduct toward their competitors. Often enough is their policy predatory. They do not literally kill men, but to a large extent they do kill competition. They often make property in the shape of rival plants very insecure. [Indeed, one of the pressing questions is, whether the independent producers who have been crowded out of the field are unfortunate sufferers from natural progress, or whether they are the victims of a wrong against which society should protect them.] Mere centralization means a crushing out of competitors by a process that, however hard it is for them, is in a way legitimate; for it is an incident of the process of the survival of the fittest. The large and economical establishment survives, and society gets a benefit from the fact. But centralization that goes to the length of quasi-monopoly takes a different color, for it may exterminate competitors in ways that do not benefit society. The employers who are forced out of the field are not then vicariously sacrificed for the good of the public as a whole. On the contrary, the sacrifice of them works exceedingly ill

for the public; and it must be stopped, if society is to avoid graver evils than have recently come upon it from any economic cause.

How much power does great size give to one of these corporations? Can it, if it will, have the market practically to itself? Can it charge what it will for its goods? Can it shut up as many of its own mills and discharge as many of its own laborers as it pleases? Is there anything to prevent it from acting as a genuine monopoly? If there is not, the situation will soon be intolerable, so that no treatment to which the state may be forced to resort, in order to rid itself of the trust, will be unjustifiable.

I

There are two important facts to be noted before we can conclude that the trusts actually have, in a dangerous degree, the power of monopoly. The first is a weakness in the organization of the trusts themselves, and the second is the existence of a powerful restraining force in their environment. Both of these serve to curtail their monopolistic power. It

might seem that, if this is so, the internal weakness of the trust ought to be fostered by the public for its own protection. May we not say that whatever weakens our enemy strengthens us? Should not a policy that would make the trust a more perfect thing, in its internal arrangements, be the last one to be adopted? Curiously enough, this is not the case. We can even help to protect the public by insuring to the trust a sounder organization. Although, as competitors, trusts are now somewhat handicapped by internal weakness, there is a method of removing that weakness which will not imperil the interests of the public, but will contribute in a certain positive way toward protecting them.

1. It should not be overlooked that at present the trust is a very imperfect thing. It is composed of a body of stockholders, a few of whom are promoters and directors. Theoretically all of its proceedings are for the benefit of the stockholders. If this were really the fact, the great issue would lie between the trust, as a whole, and the public. As it is, however, there is a more immediate

and pressing issue between the manipulators and the shareholders. The investor is at present the most conspicuous of the trusts' victims; and measures for the protection of the honest and innocent investor, whose money is filched out of safe places into these perilous ones, stand first in the order of time and of immediate importance. It fortunately happens that the very things which will protect the shareholder will injure neither the body of consumers nor the excluded laborers, but will contribute toward the protection of both of these classes. There is, therefore, complete harmony between the policy that stands guard over honest capital which is lured into a position of danger and the policy that protects the public from extortionate prices and workmen from enforced idleness.

The condition of an overgrown trust often resembles that of the wolf in the Russian story. As the members of a pack were shot, one at a time, by the occupants of the sleigh that they were pursuing, each victim was devoured by his comrades; and when the number was reduced to one, this survivor

had virtually eaten his thirty-nine mates. It was then seen that he wobbled somewhat in his gait and no longer kept up with the sleigh. A trust that, as the saying goes, has "swallowed" thirty-nine competitors cannot, in the nature of the case, be in an altogether healthy condition, for its power of digestion and assimilation is not unlimited. Very often the management of such a trust is inferior to that of the corporations which were absorbed by it. The promoter's purpose is attained when, having merely formed the corporation, he gets his slice of the stock and realizes on it in the market. He may have neither the energy nor the skill that is required for managing the consolidated company. He forms the combination and leaves it to its own devices—and often they are bad ones.

If this were all that the stockholder had to fear, his case would be better than it is; but unhappily a management that is bad for business may be good for speculative purposes. When profit cannot be secured by making goods and selling them, it may often be gained by "milking" the market for the stock or by

wrecking the corporation. What the investor needs before all things is security. He wants to have the trust make money by producing goods and selling them for more than they cost. But the manipulator often wants something so distinct from this as to draw a sharp line between his interests and all legitimate interests. It follows, therefore, that the first thing to be done for the benefit of all parties interested is to clear out a "mass of iniquity" within the organization; and the means that promises to be most efficient for this end is publicity. When there are so many persons demanding the application of this principle and so few opposing it, there is little doubt that it will be practicable to get it. The trusts must stand the turning of light upon their internal affairs. The public must know what plants they own, what they gave for them, what they are worth at present, for how much they can be duplicated, what appliances they contain, whether antiquated or modern—in short, what is the substantial basis for the value of the stocks and bonds that are placed on the market. This knowl-

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Publicity

edge is at present inaccessible. The investor who puts money into the trust must guess as best he can what property he is getting, and the guess is apt to be a bad one for him. The making public of such business facts as have just been specified would remove the gravest evils from stock watering. If the investor could know that there was only one dollar of property back of five dollars of stocks and bonds, he could buy the securities at a discount from par that would make him safe.

2. In the minds of the great mass of the people, however, the innocent investor is not the chief subject of thought or care. What the public chiefly wishes to know is whether the trusts are to possess and use monopolistic powers. Can they make goods dear at pleasure? Can they turn off bodies of workmen and make it hard for them to get new places? If they are genuine monopolies, they can do these things; but if much competition survives, they cannot.

As has been said, it is coming to be generally known that what it is the fashion to call "potential competition" has for a decade or

two protected the public against really monopolistic extortions. If the trusts charge too much for their products, new mills are built and prices go down. Many early trusts did this, with the result that new mills were built. These facts have served as object lessons for the managers of trusts. While they have to some extent put up prices, they have usually kept them below the level at which new competitors would be called into the field.

It is commonly supposed that mere size gives corporations a competing advantage, but this an inaccurate supposition. A concern with a capital of twenty million dollars cannot lose a million a year any more safely than one with a capital of twenty thousand dollars can lose a thousand a year. If the losses that a corporation sustains by cut-throat competition are in proportion to the amount of its capital, it is not necessarily a dangerous competitor. As a practical fact, a new mill, equipped with the newest and best machinery, is often a stronger competitor than a trust which is encumbered with antiquated plants. In so far as a legitimate rivalry in

cheap production is concerned, it is safe enough to build a new mill and try to get a share of patronage for it. Wholly intolerable would be our present condition, if this were not the case. As it is, we are not greatly conscious of being under an oppressive power. We can therefore look at the situation with calmness and, before deciding upon a permanent policy with regard to trusts, we can take time for deliberation. [All this is due to the fact that potential competition is working powerfully to protect us. It is not an influence of our own devising; it has set itself at work with no thought on our part; but it accomplishes indefinitely more than statutes have ever done. If it worked in perfection, there would be no need, in this connection, of our doing anything. We might protect the investor and go no further.]

There is very much to be said in favor of a system in which competition of the old type shall have ceased. One can picture to himself the world as no longer filled with actual competitors engaged in an overt struggle with each other. One can imagine a department

of business no longer represented by a hundred mills of one kind, working independently of each other and struggling desperately for patronage. One can imagine a condition in which it would not be necessary for rival producers to pull bewildered purchasers this way and that by the eloquence of travelling salesmen, by the enticing statements of newspaper advertisements, and by the allurements that are offered by combined art and eloquence, as these are condensed into the peculiar decorations with which American roadways are supplied. [A nearly ideal condition would be that in which, in every department of industry, there should be one great corporation, working without friction and with enormous economy, *and compelled to give to the public the full benefit of that economy.* This last is the crucial point; for it looks far easier to secure the monopoly of the field, and even a large part of the economy that this ought to insure, than to secure the making over to the public of the benefits that accrue.

It happens, fortunately, that the degree of publicity which will protect the investor will also afford a certain help in protecting the

consumer. Among the things that the public must know is the earning capacity of the plants that the trust owns. If this is large, the inducement for capital to enter the same field is proportionately large. It is clear, however, that such publicity is far from accomplishing all that the public wishes to have accomplished. It is conceivable that the investor may be made safe, while the competitor may be sacrificed, so that the consumer and the laborer may then find their interests in great danger; and the more difficult problem for the people to solve is the one which they have all along been trying to solve—that of protecting these latter classes.

II

The principle of monopoly itself is not perilous for that investor whose capital is in the monopoly, but it is intolerable for every one else. It is safe to say that our people will ultimately find or make a way to destroy any genuine monopolistic power that is in private hands; and it is nearly safe to say that, if we

do nothing beyond protecting the investor, the trusts will acquire too much of this power and will become less and less endurable. The restrictions that now hold them in check are not likely of themselves to grow more effective hereafter, while the trusts are likely to grow much stronger. Monopoly power that is increasing and restrictions that are diminishing in force point to a time when something positive will certainly have to be done in defence of property rights, if not of personal liberty. The measures that it is possible to take are not many, but we shall soon see what they are and try to make a selection from among them. Even now we can discern the principle which must dominate a sound policy in dealing with trusts. That principle is, first of all, to keep competition alive. Proper regulation will not shield an independent producer from any legitimate rivalry, though it will protect him from what is not real rivalry, but a disabling policy on the part of the big competitor.

Many a trust would now find itself in a new and strange position, if it had no power to keep down rivals save by fair competition;

and recent experience seems to show that, up to the present time, goods are often produced with greatest economy, not in shops that are owned by the trusts, but in those which are owned by alert and enterprising competitors. If such producers are liable to be crushed, in spite of the economy with which they work, the public will suffer an injury that is far more serious than any which the trusts have thus far brought about. If it shall be established that economy of production, or legitimate competing power, affords no protection to an independent producer, a blight will be put upon the progress of inventions; for monopoly itself does not greatly encourage invention, and the would-be competitor of the monopoly, who would gladly introduce economical devices, will find the effort to enter the field at all very perilous. The brilliant series of industrial improvements that have been steadily raising the level of human life and have opened an inspiring vista to those who look into the future may not thus be brought wholly to an end, but it will continue under serious difficulties and with comparatively small results.

The power of trusts to crush competitors is dependent upon three kinds of unfair dealing. The first is local discrimination in prices. (1) The trust may sell goods for less than cost in a limited section of the country, where an independent producer is operating, while it sustains itself by charging high prices in the large remaining area. Even though the competitor may greatly excel the trust in the economy with which he makes goods, he may be forced out of the business by this predatory policy. A producer, who found himself in this position, once called on the manager of the trust that was driving him to the wall and was received with a brusque admonition that he had "better get out of the business." "But do you not see," said the independent producer, "that, in my territory, I can produce more cheaply than you can?" "Do you not see," was the reply, "that, if we lose money in the twenty cities where you are operating, and make money in the two hundred other cities where we are operating, we come out ahead?" Such local discrimination is a strategic measure that is often irresistible.

✓ Again, discriminations may be made, not between different localities, but between different grades of goods on the general price scale. The trust may make many varieties of one general kind of merchandise, while the competitor may make only one. In that case, even though he may operate in many sections of the country, the trust may pursue and destroy him. It may reduce the price of his type of goods below cost, while keeping all other prices at the original high level.

✓ Thirdly, the trust may refuse to sell goods at all under certain conditions. It may boycott merchants who do not comply with its regulations; and one of its requirements may be that the merchants in turn shall boycott all independent producers. This is the basis of the "factors' agreement," whereby a trust which, within the wide variety of its products, has a number of things that are essential for a merchant's business, either refuses to sell him anything or refuses to give him necessary discounts, if the merchant buys goods of any description from a competing establishment.

Can these three practices be suppressed by

law? Off-hand answers to this question are often in the negative; and certainly there is no blinking the difficulty of this undertaking. If a law could be made and enforced, compelling the trusts to treat all customers alike, local discriminations would, of course, have to end; but the enforcement of such a requirement would encounter difficulties. The most obvious of these arises from the fact that merchandise is not, like refined gold, of uniform quality and readily cognizable. Hence, the trust might manufacture a certain grade of goods and offer it solely in one state, for the purpose of crushing out competition showing itself there. It would thus be possible to claim that it was making no discrimination in charges, since whatever was offered elsewhere was offered at the same price in this state also. But as soon as the vital necessity for keeping home competition alive, in spite of consolidations, is fully appreciated by the public, it will be practicable to secure serious consideration of a plan of action which, if it were successful, would accomplish this.

CHAPTER III

HOW NOT TO DEAL WITH TRUSTS

OF the measures which it is possible to take in connection with trusts, some have only to be stated to be rejected; and these it is not worth while to discuss. Other measures, however, do not carry their condemnation on their face. Each of these has some support from reasonable people; and within this list of expedients it is well to apply, if we can, a rule of exclusion. Even of these, some will almost certainly not be adopted, and by eliminating them we can save our thought and effort for policies that have more in their favor.

At the risk of disagreeing with many persons for whose general views I have sympathy, I venture to say that one of the things we shall not do is to make a sweeping abolition of protective duties. It would be necessary to remove these duties in a wholesale way in

order fully to accomplish the purposes of the measure. To expose a few trusts to the full force of foreign competition and to continue to protect others would be so far from a solution of the problem that the gain which could thus be made would scarcely be worth much risk and trouble. Totally to abolish very many duties would seem to the people like taking a hazardous leap into a gulf of uncertainties. And then, if it should turn out that some of the duties sustained not merely the trusts, but the industries themselves—if, after the abolition of the duties, the making of many articles were to become comparatively unprofitable, a very costly reconstruction of our system of industry would have to be made. Whatever may be said about the wisdom of having tariffs at all, a country which actually has one and which under it has built up industries that are still in some degree dependent on it will be cautious in abolishing it.

This, however, is far from denying that large changes in our system of import duties are practicable and desirable. The question is: On what principle shall the changes be made?

Undoubtedly we shall modify our tariff, to make it less irrationally protective. We shall become weary of paying more for our manufactured products than Europeans pay for them. The trusts themselves will wish to enter foreign markets that are now closed by retaliatory duties, and they will look with favor on reciprocity treaties. They will find that, in the main, exports are paid for by imports; and that where importations are now cut off by the American tariff, exportations are limited to small dimensions. We cannot, of course, send away our goods forever in exchange for securities. If we sell goods, we must buy goods; and this fact may mean the lopping off now of one and now of another feature of the protective system.

There is a scientific way of dealing with import duties; and we cannot expect to find it and adopt it unless we make sure, at the outset, of the true relation of the tariff to the problem of monopoly. Duties do something for the trust that exists within an industry; but they also do something for the independent producers who, with the trust, constitute the

industrial group as a whole. They likewise affect the potential producer, or the man who is not now in the field but will be there if certain inducements are offered. The solution of the tariff problem is bound up with the true solution of the problem of dealing with monopolistic corporations.

The essential principles in this connection may be stated as follows:—

*conclude
monopolistic
business
imply*

1. Wherever there is a trust, there is an independent producer also to be considered. If he is not now in the field, he stands ready to enter it when a return is to be had.

2. This independent producer should at all hazards be protected, not against any fair competition, but against unfair and predatory attacks by his powerful rival.

3. If he is thus protected, his presence or even a contingent prospect of his arrival on the scene protects the public against extortion.

4. When the public is thus protected in a way that is not dependent on changes in the tariff, this fact makes it practicable to make such changes in the wisest way.

5. The alterations that, under these con-

ditions are desirable are unlike those which would be made if the purpose in view were merely the crippling of the monopoly. They are more nearly like those which might well be made if there were no trusts in existence.

6. If competition is thus kept alive, the trust can afford to permit a reduction of the duties on its own products, and it is interested in demanding reductions of the duties on many other things.

7. If such reductions were made, the trust would find itself less strongly impelled than it now is to act a predatory part in crushing its independent rivals.

The truth of these propositions will appear as the argument proceeds. What they signify is that it is of vital importance to keep competition alive, if we are to deal in a right way with our protective system, and that proper regulation of protection will, in turn, help us to keep competition alive. In other words, if we solve the problem of monopoly without changing the tariff, we shall get help from the trusts themselves when we seek to make changes. These changes will then have a further and

advantageous reaction, which will confirm and increase the gain that we shall have secured by our original anti-monopoly action. Control the trusts, then, and take the monopolistic element out of them. This will help you to reform the tariff, and this, in turn, will make the control of the trusts more easy and complete.

What, now, are the essential facts? The country is full of great corporations which have some genuinely monopolistic power. They are sheltered by a tariff that enables them to put on American consumers the "fixed charges" of their business, and thus to sell goods to foreigners more cheaply than they sell them at home. These companies virtually collect from their customers in this country a subsidy for the maintenance of an export trade. Inevitably the demand is made that all duties which enable them to do this shall be repealed. If this demand were complied with, we should find ourselves without protection for a great variety of manufactured articles, but with protection for raw materials. The change would be a kind of tariff reform that would be most likely to injure, not merely the

trusts, as menacing powers within their several industries, but the industries themselves.

It would affect the independent producer as well as the trust; and it could be brought about only by a struggle of classes in which this independent producer, who is the natural friend and protector of the public, would be on the side of the combination and against the reformers. Success in the movement would mean that a crude force had overborne monopolist and free competitor alike.

Carry this struggle through to success. Abolish all duties on trust-made articles and see where that will leave the country. In a few cases you will produce no evil effects. Some branches of manufacturing have undoubtedly reached a stage in which it costs less to make goods in this country than in Europe; and in these industries, with no protection, the American makers can hold their markets against foreigners, while still getting fair returns. No foreign competition can force such producers to reduce prices to the profit-annihilating point. This, moreover, is the situation, not of exceptional and highly

favored manufacturers, but of the majority in some trades. Does any one suppose that the production of steel, for instance, would be much reduced, if that product were made duty free?

From this condition of fortunate independence industries shade off into a state of partial dependence on protective duties. In some branches the most efficient shops could hold their own against foreigners; while others, being less efficient, would have to yield the field to them. In very few cases would all the establishments be crushed; but in many cases there would be a great mortality among them. The shop that is now fighting its way toward success might find its career abruptly stopped. Possibilities of this kind are clearly enough before the public mind to prevent the abolition of all protection on all articles made by trusts. Wholesale removal of duties has some intelligent advocates, but it has practically no chance of success.

It would, however, be entirely reasonable to reduce each duty to an amount that equals the difference in cost between the American and

the foreign article. Find out accurately how much the owner of an American mill has to spend in the creating of a particular product, ascertain with the same accuracy how much the European spends for the same purpose, and make the duty on the completed article equal to the difference between the two sums. The European can then place his goods on the American market at an outlay which, when duties are paid, equals the outlay incurred by his American rival. The two will then be more nearly on an equal footing, and success will come to the one who improves his processes most rapidly and makes the largest savings in the advertising and selling of his wares. The public will get the benefit of this rivalry in economical production, and will get its goods at the maximum of cheapness. The adjustment will, moreover, favor the American maker; for, if the costs of production on the two sides of the Atlantic decline together, the *difference between the costs* will grow less. It will soon be smaller than the amount of the duty; and if then the goods are sold at their cost to one who imports them from abroad,

there will be a margin of gain for the man who makes them here.

Even at the beginning it is necessary to allow such a margin of profit to be made by every highly efficient producer. The costs in America and in Europe cannot be ascertained with perfect exactness; and if the duty is intended surely to cover the difference between them, it must be fixed at a slightly larger figure than the one that expresses the apparent difference. Moreover, costs vary in different shops; and in practice the most economical one in this country would not be made to furnish the standard for comparison. To do that might sacrifice a less efficient man. But if this latter producer is hopelessly outdone in the race for cheapness, he should be thus sacrificed, since in the end he is certain to fail. It is far from being for the public good to tax consumers for the support of an establishment that will run forever in a wasteful way. The only establishment that is entitled to consideration is the one which has before it the prospect of increasing success, but has not yet attained it—the one which is well equipped,

but has not, as yet, won a market for its goods. Possibly its internal organization is tentative and imperfect, but has large possibilities of improvement. Many a new establishment goes through a period in which experimenting is inevitable and is costly; and that potential producer, to whom we have before referred as the agent whose possible action puts a curb on the exactions of the trust, has before him, whenever he plans to enter the field as an actual competitor, the prospect of facing such initial difficulties. An adjustment that takes the potential competitor into consideration will be apt to leave enough of the present duty on his product to cover the difference, not merely between the costs that he *will incur when his efficiency shall be fully developed* and those incurred by a European rival, but the difference between his earlier and slightly larger outlay and the European standard. On all accounts the calculation of the present excess of costs incurred by Americans over those incurred by foreigners needs to be made on a more or less liberal scale. Without retaining the absurd duties that now protect the American, a policy

adding the duty to

which takes the situation as we now find it, and tries to change it in a reasonable way, will leave enough of the duty untouched to protect the establishments which are now running with a good degree of economy, though they fall short of attaining the maximum of it. This policy would be a desirable one, if there were no trusts in existence; and it may be even more desirable, in view of the growth of these monopolistic companies. *The chance of actually carrying out this policy depends on the regulating of trusts by a different set of measures.* We must take away their power to make, even under an exorbitant duty, any exorbitant profits. When that is done, they may submit to a large reduction of duties on their own goods; and they will be morally sure to join us in demanding reductions of duties on products which they do not make.

After a long period, during which very little tariff reform of any kind has been obtainable, we find ourselves where two contrasted types of it present themselves as possibilities. There is, first, the abolition of the duties on finished goods and the retention of those on raw

materials. This is simply an anti-monopoly measure, which takes grave risks for the sake of curbing the power of great corporations. There is, again, the policy of reciprocity, which admits, with low duties or none at all, many products of foreign countries, for the sake of making markets for our own exportable goods. This plan might help the very industries within which trusts have been formed. It would certainly insure a sound commercial expansion. Will the trusts themselves favor it? Will the general public do so? If monopolies can be curbed without changes in the tariff, the answer to both of these questions is, Yes; if not, the answer in both cases is, No.

If a corporation can exact a really monopolistic price for goods that it sells at home, it may, however, treat its export business as of secondary consequence. It may prefer to accept reduced orders from abroad, rather than accept lower prices for the goods sold at home. There may be larger gains to be had from high prices in the home trade than from any practicable expansion of the volume of the foreign trade. The trust will then oppose any

reduction of the duties that enable it to maintain the unnaturally high prices.

What will it do if, in ways that are independent of the tariff, its monopolistic power is broken? If competition still acts at home and brings prices to their normal level, will the motive for fighting against the reduction of duties still exist? On the contrary, a sound policy will favor a reduction of them. The monopoly profits on the sales made at home will be definitely lost, and the foreign markets will then become of great importance. A policy that will gain admission to them for the goods that are coming in such abundance from our own mills will be lucrative. Gains will come from large sales at natural prices, rather than from small sales at unnatural ones. This means that the trusts will be enlisted on the side of commercial reciprocity, and will tolerate a reduction of duties on such products as they make themselves, if foreigners will make similar concessions and if the American producers of raw materials will do likewise. Our manufacturers may not wish to meet foreign competition; but this does not prove that under favorable condi-

tions they cannot do it, even without protection. They can certainly do it with the aid of the limited protection that has been described above; and this certainty is made doubly sure by the advent of new and vigorous rivals at home. Inventions will be made and organization will be perfected, till the foreigner can be safely met on his own territory. With the prices of their own goods reduced by competition to a natural level, they can hold the home market in spite of all comers. Low duties on raw materials and efficient competition in our own country will afford advantageous conditions.

Among the possibilities of the near future is a status in which trusts shall be displaced from their vantage ground of monopoly and the prices of their goods shall be brought to a natural level. They will then be safe against foreign rivalry and anxious for foreign outlets. They will desire reductions of duties, if only these can be made in the case of raw materials as well as in that of finished products. So long as the trusts continue to be quasi-monopolies, they may contest every foot of progress

toward freer trade; but if they lose the monopolistic position, they will use their vast power in promoting it.

Of the utmost importance, then, is the rescuing of competition from extinction; for not only does this afford the key to success in solving problems of commercial expansion, but it creates the conditions for healthy progress in all the practical arts. Inventions will follow each other in bewildering succession, forces of nature will be pressed into service in enlarging measure and the earning power of labor will go steadily upward, provided only that an effective competition shall be kept alive. On the farmers, in particular, does the pressure of a monopolistic power, when it exists at all, rest heavily, and the rescuing of competition in manufactures means an emancipating of agriculture.

Before describing more fully the conditions under which a settlement of the tariff problem and of the trust problem is possible, we may dispose in a few words of some remaining plans for the control of trusts.

We shall not depend on limiting the size of corporations. We shall not prescribe a certain

number of millions of dollars as the greatest amount of capital that a corporation can have. If we were to do such a thing, we should have to do it in a way that would make no impression upon any but the largest trusts. Ten million dollars in actual capital would be sufficient for a majority of trusts, but it would be an absurdly small amount for some of them; and no legislator would think of prescribing a limit that would cripple important industries.

Moreover, we shall not try systematically to break up the great corporations into small ones. It is conceivable that a statute might be enacted which should say that any corporation producing more than a quarter of the supply of goods of a given kind should be treated as a monopoly and outlawed under a principle of common law that is already in force. If such a statute were effective to the extent of putting four smaller corporations in the place of one great one, we should still have to deal with the underhand pooling operations which go on now in many places. The four corporations would inevitably find ways of acting in concert.

Again, we shall not prescribe by law the prices at which goods must be sold. The difficulties encountered by such a policy are so obvious that it is scarcely necessary to mention them. It would require commissions containing many members, all wise and incorruptible. It would require superhuman skill in devising and applying a scientific rule for adjusting prices. Granting that commissions having such impossible qualities could be secured and that their action could be made effective, the result would have to resolve itself into a regulation of profits. The only basis on which prices could be prescribed would be one of cost. We should wish to leave to the producer a return that would pay fair wages, managers' salaries, interest on capital and insurance against risks. We should make the price, in short, cover costs of production, as liberally and scientifically interpreted. Competition, however, itself tends to make prices conform to this standard. It tends continually to rule out of existence certain net profits which are in excess of costs. Law, moreover, is a poor instrument for

accomplishing such a result. If it worked quickly and remorselessly in forcing prices down to the cost level, it would do more harm than the trusts have done.

Further, we shall not tax profits out of existence. We shall not enact that all gains above five or six per cent on the amount of capital used shall be made over to the state. That would stop progress. Why should a man improve his methods or deprive himself of any sleep in the effort to organize his establishment in an effective manner, if the most he can get in any case is a fixed gain of five or six per cent? It would be better to use the old machinery, to run the ill-located mill, to retain inefficient managers, etc. Inventors would find a poor market in a country where profits should be fixed by law.

Finally, we shall not try the experiment of state socialism. This proposition may require an extended argument, which cannot here be given. There is no doubt that the growth of trusts has caused state socialism to present itself to many a mind as a possible alternative for a régime of monopoly; and if it were the

only alternative, the case for it would be a strong one. As between a system of unregulated monopolies in private hands and one great public monopoly, many a man will prefer the latter. The situation, however, is not so serious. The trust is not now unregulated, and it is by no means incapable of further regulation. There are things now doing, and there are more to be done. There is in sight a condition in which these corporations may serve the public. They may give us the benefit of their efficiency. They may play their part in promoting commercial expansion and put this country into a position of peaceful dominance in the world's affairs. They may conceivably do this without oppression. They may not tax the consumer or crush wage-earners. The route to this desirable state is not easy, but I venture to assert that it is becoming reasonably plain. The solution of the trust problem is not as baffling as it has been.

CHAPTER IV

MONOPOLIES AND THE LAW

IN dealing with trusts it might be expected that theory would be bold and practice conservative. In fact, however, actual law-making has gone to the extreme of boldness, while theory has steadily held to the more moderate way. Practice is apparently about to take the latter course. The policy of the future is well in sight; and it involves changes in the present condition that are so moderate as almost to incur the suspicion of being a *laissez faire* course. And yet it is an effective policy for the regulation of trusts, and will do its work so well that it will stir up strong resistance, and therefore the execution of it will require all the energy which a people devoted to industrial freedom will be able to use.

In the making of new laws we shall do first what is most undeniably wise—that is, give protection to investors. When the public

is invited to buy stocks and bonds of industrial companies, it needs to know what real property it is getting by its purchases; and it will find a way to make the needed facts accessible.

When, however, the investor shall have been, if not protected, at least placed where he can protect himself, the graver difficulties connected with the regulation of trusts will begin. It is not for the harm that they do to the men who own them, even though these men may pay too much for the ownership, that monopolies are dreaded. It is for the harm that they threaten to do to the public. Consumers are in danger, and so are all laborers who are not specially aided at the cost of consumers. The trust may pay its own operatives well; but it may close mills and force many employees into other occupations. It is there that the injury to labor is located. There are, indeed, four parties who have a common interest in curbing monopolies: namely, the independent producer, the consumer, the farmer and the unprotected laborer. The rival producer may be crushed and the

consumer may be made to pay high prices for goods. The farmer, as a buyer of such goods, may be taxed on his consumption, and he may be made to take low prices for the raw materials that he has to sell. The laborer who is not tied in interest to the trust itself, by receiving a premium on ordinary wages, may suffer with the rest through a reduction of his pay. All this *may* happen; and it *will* happen to the extent that these consolidations acquire the amount of monopolistic power that it is for their interest to gain.

1 The key to the solution of the grave problems that are thus presented lies in the fact
11 that the independent producer is the natural
v protector of all the other threatened interests.
If the trust cannot crush him, it can neither tax consumers through high prices of finished goods nor mulct farmers through low prices of raw materials; and it cannot depress the general rate of pay for labor. Goods will be produced at normal prices, and all who help to make them will get normal returns, so long as competition is kept alive.

But it is not easy to keep competition in vigorous life. The great company has ways of clubbing the men who are bold enough to rival it. This is not done by the old and familiar plan of reducing costs and underbidding the inefficient producers. That is a part of the established order of things. The economic organism has become efficient as it is because capable producers have survived and others have perished. The process has, indeed, had its serious hardships. We have been appalled by the law that holds an inexorable fate over every employer who cannot get out of labor and capital as large a product as his rivals are getting; but for society as a whole there is gain coming from this. The hope of an endless increase of productive power—of a perpetual rise in the level of all economic life—lies in the continued action of this law of survival by which only the best servants of mankind are retained.

At present the situation is the reverse of this. The interests of the public itself are now threatened by the destruction of competing producers. This is because it is no

longer by reason of inferior efficiency that they are in danger of being crushed. It is not the unfit, but the particularly fit, that are in danger of going to the wall. The competing power that threatens to destroy them depends, not on economy in production, but on special and unfair fighting powers that great size gives. The really efficient producer, the man who can make goods even more cheaply than the trust can make them, is now in peril. It is this man who must at all hazards be kept in the field. We, the people, must use the law to protect him, as he uses his economic power to protect us.

Now, the first and easiest thing for us to do, in thus guarding our guardian, is to secure for him fair treatment by railroads. If the trust gets a rebate which he cannot get, it has him at its mercy. It may ruin him, even though he may be able to make goods more cheaply than the trust itself can make them. Moreover, it is the prohibition of pooling by the railroads themselves that subjects them to the temptation to make the discriminating charges. In a pool they would have no reason for trying

to lure away from each other the traffic of the large shippers. Yet the toleration of pooling means the regulation of freight charges by the state. It has lately come about that the attempt to preserve competition among common carriers has gone far toward extinguishing it among manufacturers. Competing railroads, a struggle for the business of large producers, secret rebates to such producers, the extinction of small rivals and an approach to monopoly in many branches of production—this is the series of phenomena that we have recently witnessed. Railroads in pools, regulated charges and a fair field for the small producers—this is the alternative series; and it is the one that in the end we shall choose unless we are driven to a much bolder course, the giving over of railroads to the government.

An exceptional functionary is the common carrier, and we shall be forced to deal with him as we shall not deal with others. His position is strategic, and we cannot long allow it to be used in a way that creates monopoly in the remainder of the economic field. Without pretending to deal adequately with the prob-

lems of transportation, I record the belief that the mode of solving them will not be through state ownership, but rather by state regulation. The type of regulation that we are now trying ~~to~~ enforce is more difficult than another one would be, and this other one would actually meet the exigencies of our position. We want all producers treated fairly; but we are trying to make the carriers treat them thus, while we keep the carriers themselves under a great temptation to deal unfairly. It is the competition of railroads with each other — the effort to lure traffic from one another — that affords the chief incentive for secret rebates to the larger shippers. Let the competition end itself by means of pools, and you put an end to this temptation; for then there is no longer anything to be made by giving such rebates. We must now protect the public against charges that in an all-around way may be too high; but we can probably do this more easily than under the present plan we can prevent discriminations. If all railroads were pooling their earnings, they would want to make their rates high and the public would want to keep them low. The

issue would be clearly drawn; and, though it might take a supreme effort to get the right law enacted and enforced, the evasion of the law would be less easy than is the evasion of a law requiring competing lines to treat all shippers alike. The law can protect the whole public against a generally high scale of charges more easily than it can protect a small shipper against special favors accorded to his powerful rival.

It may be taken for granted that the unequal treatment of different shippers is an evil so great that, sooner or later, it must and will be suppressed. When that is done, we shall find ourselves at the beginning of more serious work. There will remain in the hands of the trust weapons by means of which it can destroy its rivals; and these cannot so easily be taken away. If the solution of the railroad problem is hard, the solution of the remaining part of the problem of monopoly is still harder; but it is not beyond the power of the people, if that power be directed with intelligence.

There are, as we have seen, three ways, all now well known, in which a trust can crush an

efficient competitor. The rival may be producing goods cheaply, and he may be the man who normally ought to survive; and yet the trust may ruin him. It may make use of the "factors' agreement," by which it gives a special rebate to those merchants who handle only its own goods. It may resort, secondly, to the local cutting of prices, whereby the trust enters its rival's special territory and sells goods there below the cost of producing them, while sustaining itself by means of higher prices charged in other portions of its field. Again, the trust may depend on the cutting of the price of some one variety of goods which a rival producer makes, in order to ruin him, while it sustains itself by means of the high prices which it gets for goods of other kinds. These three things make the position of a competitor perilous. If the trust were prevented from resorting to them, competition, real or potential, would not only protect the public, but would insure to it a large share of the benefit that comes from economies in production. Independent mills would continue to be built and would be equipped with machinery so efficient that a trust would have

to be forever on the alert in keeping abreast with them. There is no conceivable condition in which both consumers and laborers would find their interests so well guarded as one in which trusts should be allowed to exist without let or hindrance, but in which the prices of their goods should be forced continually downward by the necessity for meeting actual or possible rivalry.

It is not difficult to see what is needed in order to make the independent competitors thus secure. In a fair contest for survival they can protect themselves. In such a struggle everything depends on mere efficiency in production, and they may well be subjected to the full force of it. When economy in production no longer saves them, it is time for the state to intervene; and it needs to do this, if it would carry out the very end for which it was originally established,—the protection of property itself, by the suppression of refined forms of robbery.

The factors' agreement, the local cut in prices and the illegitimate breaking of a general scale of prices must, then, in some way be stopped. If laws were self-executing, it would ✓

be easy to stop them. These unfair acts could all be defined and forbidden; but not many laws are more difficult of enforcement than these would be. To forbid the factors' agreement is virtually to order the trust to sell goods of any kind to any customer who tenders payment for them; and the order might remain a dead letter. Prohibiting local discriminations in prices might have no better result.

You may, indeed, ordain, under severe penalties, that prices of a particular article shall be uniform to purchasers in every part of the United States. The costs of transportation should, of course, be taken into account, and the distant purchaser should pay a larger freight charge than the near one; but the price at the point of shipment should be uniform for both. A difficulty would at once arise from the fact that merchandise seldom has those qualities which, in connection with money, have been termed homogeneity and cognizability. The goods vary in quality, and it is not always possible for a purchaser to tell of what quality they are. If a trust wished to crush a competitor in Minnesota, by selling

within that state certain goods at less than it cost to make them, it could perhaps accomplish its purpose, in spite of such a law as is here suggested, by making a special type of goods and offering it exclusively in the market of Minnesota. It might create an entirely new brand of goods and offer it nowhere except in this one state; and there it might offer it at a price that no competitor could meet.

It would, indeed, be true that, under the supposed law, the trust would be obliged to sell goods of this special brand to consumers in other states at the same price at which it sold them in Minnesota; and if orders were to come promptly and freely from the other states, its attempt to ruin its competitors might prove costly and unsuccessful. Sooner or later the orders would doubtless come, and the strategy of the trust would no longer serve its purpose; but an independent producer might not hold out long enough to get the relief thus afforded. During an interval the trust would secure high prices in every state but one; and in that single state it could afford to stand a loss for the sake of ruining its competitor.

Even this difficulty is not as great as is that encountered in the effort to suppress the breaking of a scale of prices and the making of a ruinous rate on a single article that figures in the scale. The independent mill may be sending its goods all over the country, but it may make goods of only one kind. How shall we prevent the trust from temporarily selling at a ruinous rate goods of this one kind?

It is true, indeed, that this particular club, which would be very effective in braining a single small competitor, would be of no use against a combination of small producers making, in their various shops, as complete an assortment of goods as is made by the attacking trust itself. The cut on one article made by the big corporation could be met by a similar cut on that same article made in one of the shops controlled by the pool; and this affords a reason for thinking that the permanent policy of this country will not be hostile to such pools. In foreign countries they are treated with toleration, if not with friendliness; and for defensive purposes in wars against vast corporations they may have a function to perform here.

If it could be proved that a reduction in the price of some one type of goods was not justified by changes in the conditions of production, this would be an evidence that the cut was made for a predatory purpose. If the price of the particular grade of goods were first put down and then put up again, and if rivals were crushed in the interval, this would be evidence that the purpose of the cut was illegitimate. Sharp enough penalties for such conduct, enforced in a few cases, might make the policy too dangerous to be practised. It is not to be admitted that statutes for the suppression of wars of extermination, such as a trust can now wage against its rivals, are powerless. They are, to be sure, difficult of enforcement; but if the people were living always in a heroic mood and maintaining a fierce watchfulness over their officers, the thing desired would certainly be done, and it may be done in any case.

There is a better thing to be done. Statutes are not our sole reliance. The American lawyer may gauge his skill by his success in "driving a coach and four through them." Where statutes are the only reliance, technicalities are

in favor of the criminal, and lawyers secure immunity for him. The most efficient action that has thus far been taken in curbing the power of trusts has been taken under the common law. It forbids monopoly, and there is no possible danger that this prohibition will ever be abandoned. To tolerate a monopoly in private hands, is to vest in a few persons the power to tax the rest of the community; and this will never be permitted. The thing to be done is to discover what is a monopoly and to decide what shall be done with it where it is identified. At present there rests upon the courts the duty of determining in what cases a monopoly actually exists; and the determination has its difficulties. How shall a monopolistic corporation be defined? Is it the only corporation from which an article can be procured? If so, there are scarcely any such monopolies now in existence. In nearly every industry there is a fringe of independent life remaining. The trusts take the centre of the field and let a few small rivals operate on the outskirts. If these are in the trust's power and are compelled to do its bidding, the

monopoly is essentially complete. If, then, new and strong competitors are precluded from appearing, the position of the monopoly is secure; for it has nothing to fear on the economic side. Just here, therefore, its danger on the legal side ought to begin; for it is the banishing, not merely of the actual, but of the potential, competitor that makes it a monopoly. If the law will take it effectively in hand at the point where competition of the potential kind ceases to restrain it, nothing more is needed. Let us, then, enforce, the common law as it stands. What is to be desired is a recognition of potential competition as a regulator and of the means used to destroy its power, with a rigorous use of the legal force, wherever these means are employed.

There are some economic distinctions that will have to win recognition before the course of legal proceeding in the case of monopolies can be clear. To dominate weak rivals and to prevent strong ones from appearing, is to perform the act and to take on the character of a monopoly. But the large and efficient mill that has not yet been built is a regulator of prices

in advance of its existence. If the way is quite open for it to appear, the trust cannot long keep prices at a high level, and cannot put them there at all with safety for itself. The test of the question whether the great corporation is or is not a true monopoly is applied by determining whether the way is or is not open for the competitor to appear. If the new mill can be built without danger that the trust will close it by means of some of the illegitimate practices above described, the great corporation is a beneficent institution. It will produce goods economically, develop an expert business and accumulate capital in a degree that will go far toward giving to our country financial dominance in the world. If the rival mill is terrorized in advance and precluded from appearing, the trust has all the evil traits that the term "monopoly" implies. It is a monster in size, in either case; but the difference between being a docile servant of man and a predatory beast is made by a mere potentiality. Can the rival safely appear or can he not? is the test question in the case.

Size, then, does not make a monopoly. Con-

ceivably a corporation might make all the goods of a given class and yet be held completely in check by merely potential competitors. Practically, in some departments of industry, an approach to this condition now exists and makes the state of society a startling one, though still tolerable. The power for evil that goes with size may not be used. When it is used, the predatory work begins. Monopoly is that monopoly does; and the typical act that identifies the unlawful power is the crushing of rivals by the means above described.

Advancing rapidly is the time when to every highly developed state there will be presented a sharp practical alternative. It is between keeping alive the power of potential competition and not doing so; and this means a choice between putting its citizens actually into the power of the "octopus" of popular rhetoric and keeping them free. Nothing but competitive power of some kind can take from monster-like consolidations of capital their power to do evil, while leaving to them both their power to do good and a motive for exercising it. If it is certain that the competitor will

promptly materialize when he is needed, the trust is eminently useful; but as this certainty shades off into a bare probability, or even into an improbability, the evil qualities of the combination grow and the good ones gradually vanish. Size without predatory power, then, makes a corporation beneficent; but size with this evil endowment makes it a menace to freedom; and the power to work harm depends on the special practices that have been mentioned — namely, the favors exacted from railroads, which we assume will before long be stopped, the local cutting of prices of goods, the breaking of a scale of prices and the type of boycotting termed the “factors’ agreement,” which, as we claim, must be stopped. By these means the trust can often crush a rival; and *the prospect that it will resort to them often terrorizes the rival in advance and prevents him from appearing in the field.* The trust has but to brandish its clubs when the rival producer is taking his preliminary survey of the field. It will not need to use them, for the rival will vanish.

There are, then, at least two potentialities that have to be taken into account if the

present situation is to be understood and if a future policy is to be wisely determined. If new competition is sure to spring up in case prices are raised, they will not be raised. They will continue to be held down by a possible producing agent, and not by one that is actually present and acting. This is potentiality number one. It may be that the new competitor will not dare to appear, because the trust will use its clubs in case he does so. This is potentiality number two, which neutralizes the first one and leaves the monopoly unchecked. The certainty that a competitor will be ruined, if he appears, takes away all probability of his appearing; and this probability affords the only natural check of any importance on the action of the monopoly. What is wanted is a third potentiality, such as the law alone can afford. It needs to be made sure that, if the trust uses its clubs on the competitor, the law will use its own clubs on the trust. This will preclude the crushing of the new producers. The second potentiality, the bad one in the case, will then be removed, while the first and good one will be restored. If the trust

has much to dread from the civil power, in case it ruins competitors unfairly, it will give them a fair field. This is all they need; and, with this assured, they will appear promptly whenever prices are raised to an extortionate level. But such a rise will not take place. The potential competitor will protect the public from extortion, because a potency residing in the law annihilates the trust's power to destroy him. From every point of approach we are led to the conclusion that the law must disarm the trusts—it must take away the weapons which are available only for evil.

- ^ The railroad problem must first be solved and fair treatment for all shippers must be secured. Then factors' agreements, the local cutting of prices and the predatory breaking of a scale of prices must be forbidden, and there must be a

v real force behind the prohibition.

The difficulties in the way of such a policy have not been denied. Are they insurmountable? Some thoughtful persons have said so; but this verdict has resulted from considering merely the power of statutes, the ease of evading them and the skill of the tech-

nical lawyer in securing immunity for those who evade them. The case does not, however, depend on statutes. There is the never-to-be-abandoned principle of common law, that a monopoly is contrary to the public interest and definitely outlawed. There is the fact that mere size affords presumptive evidence that a corporation is liable to this condemnation. There is the evidence to be had from the raising of prices and the shutting down of mills. There is needed further evidence from the treatment of rivals. It is not impossible to discover when a trust is clubbing its competitors, in one or more of the ways that have been described. Forbid such practices and prescribe as severe penalties as you will for resorting to them. Let the statutes give every chance to suppress them. Make the local cutting of prices, the breaking of a scale of prices for a predatory end and the factors' agreement illegal and punishable; and do what you can to secure an execution of the law. ✓ In doing this you will not have exhausted the power of the state, nor will you have drawn on it in the most available way; for there

- will remain the common law demand for the
- repression of monopoly. On the courts there will continue to rest the duty of detecting the monopoly and pronouncing the condemnation; and, if the evil practices continue, the monopolies will exist and invite the court's decree.

The actual present situation is one in which a hundred great corporations would become unrestrained monopolies and liable to the fullest condemnation, if it were not for a certain amount of potential competition. But the extent of the influence that this kind of competition exerts is insufficient. Within limits a trust may raise its prices unduly, because the competitor cannot be drawn into the field except by a large inducement. He must have a prospect of gain that will offset a peril. Society can count on his coming when it pays prices that are high enough to lure him into the danger, but not before. Up to this point the trust can have its way. It is a true monopoly with limited powers; and only because of this limitation does the common law fail vigorously to assert itself. We are establishing in the body economic a state which resembles that condition

induced in an individual body by taking in small quantities of a poison against which the system revolts. As the medical term expresses it, we are "establishing a tolerance" of monopoly. We are reconciling ourselves to a limited exercise of its power for evil, in view of a certain power that it has for good. There is peril for the state in this course, which will strengthen decisively the growing demand that the government shall take industries into its own hands and manage them for the public welfare.

What is needed is to make each one of the practices by which competitors are terrorized legal evidence of the existence of a monopolistic power and to condemn, under the common law, any corporation that shall afford this evidence. This procedure should be made so sure that the competing producer will always dare to come when he is wanted. He will not be safe, if he cannot produce goods cheaply; but if he can do this, his continuance will be assured. The law will then take in hand the power that would treat him unfairly. The clubbing of independent producers can be de-

tected, and it is not impossible directly to punish it, if the people will show determination; but it is worth more to use it as a decisive addition to the mass of evidence which, under the common law, can convict the monopoly. The duty of convicting it now rests on the courts, and accordingly there rests on the legislatures the duty of making the conviction practicable. It is the privilege of the people to hold the legislatures to this duty.

CHAPTER . V

CONCLUSION

WELL in sight is the policy of the future in relation to trusts. It is one which welcomes centralization, but represses monopoly. It allows mills and shops to grow large and to combine with each other, for the sake of the economy which this growth insures; but it puts a stop on predatory uses of the power that is thus gained. It yields nothing to monopoly, but employs the statute-making power to strengthen in every way the condemnation that the common law pronounces on it. Its purpose is to blend efficiency in production with equity in distribution, insuring to the country that shall succeed in carrying out the policy a wealth-creating power which will tell greatly in international rivalries and will be gained without sacrificing the rights of any class of its citizens. An abundance of riches

will come by means of it; but contentment, harmony, and even fraternity, which are worth more than crude abundance, may, in the end, come also. To the country that shall, at an early date, unite in this way collective prosperity with internal harmony, there is offered a position of economic leadership. It will have over other countries the same advantage which a man has over other men when he precedes them in the use of efficient machinery, gaining large profits for himself and forcing his rivals to follow in his footsteps, in order to save themselves from being crowded out of the field. It is not merely because he has the machine, but because he has it before others get it, that he reaps a return in profit and power. The country that shall early utilize the power of the trust for good, while curbing its power for evil, will have as its reward national profit and a position of leadership among nations.

It will be impossible to secure as much as this without insuring another thing which is worth even more; for progress is in itself the *summum bonum* in economics, and that society is essentially the best which improves the fast-

est. No state can be good if it is stationary, or bad if it is now advancing at a satisfactory rate. It is the direction and the rate of social progress which afford the supreme test of the quality of an economic system. Competition always insures a forward movement. Our plan proposes to keep it alive, first, as the immediate protector of farmers, laborers, consumers and independent producers. We wish it to act so that no one of these classes can now be plundered. But we cannot keep it alive for this purpose without getting the benefit of its more important service, — that of spurring producers to greater efficiency. Regulate trusts, if you can, by a cruder method and you are likely to see them putting a damper on inventive genius. You may see them suppressing improvements, in order to use old machinery the longer. Regulate them solely by the power of competition, and you will force them to be alert in utilizing improvements, if they would save themselves from the fate that has always awaited the tardy and unenterprising. A small shop with a good machine may undersell a big shop with a poor one. It may end by becoming big, while

its rival dwindles. Size affords no immunity from the law that writes over the door of every business house permission to live, on the sole condition that it shall forever increase its efficiency. For future progress more than for present relief must we rely on keeping alive the power of competition. The rate of our own real progress will vary with the degree of our success.

What is needed is a *laissez faire* policy in one sense of that term, but not in another sense. It involves no dull letting alone of an evil tendency, but it does involve allowing a natural development to go on unhindered. Clear the decks for action; remove all obstacles which stand in the way of a healthy rivalry in production—this has always been the sound rule, and obedience to it has always insured progress.

In the outlook that is opened to a country which shall combine high centralization with effective competition, there are features which we have not taken the time to discuss. In this new régime there is a probability of greater steadiness in the general economic movement. "Booms" and depressions may not succeed each

other as they have done. The commercial crisis may become a less dangerous phenomenon.

There may also be afforded, before long, an enlarged field for secure investments. The bonds of industrial companies should, in the end, become a safe form of property for even poor men to hold. With improvement in the mode of investing savings, there should be an increase in the amount of the savings themselves. High wages, with safe depositories for unconsumed wages, should result in larger accumulations made by laborers; and the true proletariat, in so far as it shall survive, may become only a remnant of the present wage-earning class. The majority of those who labor may possess capital and the additional influence which property brings; and the stake which they have in the social order may make them use their influence with conservatism and intelligence. A steady upward trend of the level of human life should follow the development that combines centralization with competition. This is a result as well worth working for as any that has ever been offered to men, and should call forth the heroic effort which overcomes every diffi-

culty that does not amount to a physical impossibility.

That the society of the future will combine economy with progress, both collective and personal, and that it will do this by following a plan which is at least in the general line of the course here advocated, is made nearly certain by the nature of the other courses which are possible. These are two in number. We may either continue to make ineffective prohibitions or we may adopt the rule of *laissez faire*, leaving growing monopolies and their occasional rivals to fight out the issue as best they can. If this means a state that is barely endurable; if it leaves in the hands of the consolidations vast power for evil and reduced power to do good, with a lessened motive for using it; if it ends by establishing in the mind of the people what in medical language is a partial "tolerance" of monopoly—it will put a permanent blight on the development of our state and transfer to others the place of leadership which is now offered to us. If, on the other hand, the monopolies get the upper hand, throwing off more and more the checks that now limit their

power, the result will be state socialism. Beyond a moderate distance the tolerance of private monopoly will not go. Under such conditions the state would be urged to take possession of industries that assume a genuinely monopolistic form. The contest that must ensue over such a transfer would involve a wasteful and paralyzing division of forces; and, if the transfer were actually to be made, there would remain the possibility—or, rather, the imminent probability—of an anarchic period and a later reorganization of the industrial system on a competitive plan. This experience would be ruinously costly, and it would be optimistic to expect that at the end of it we should find ourselves in as favorable a position as the one we are now enjoying.

It is better, however, to reach the goal of general prosperity, which is now directly before us, without the destruction and the rebuilding of the fabric of society. Long, indeed, would it probably be, after a plunge into state socialism, before we should attain the stage of advancement that we have now reached. Increased efficiency in production, through rapid

improvement in industrial methods and the invention of automatic machinery; higher wages, with the diffusion of much property in small holdings, to offset the concentration of other property in large ones; greater steadiness in the movements of trade, dispensing with financial and industrial crises — in short, the attainment of those economic conditions under which political democracy may exercise its full power for the good of all classes depends on the maintenance of competition, in spite of inevitable consolidation.

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